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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,065	07/26/2001	Florian Oelmaier	3118	6076

7590 01/08/2007  
GLENN PATENT GROUP  
3475 Edison Way, Suite L  
Menlo Park, CA 94025

EXAMINER
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PICH, PONNOREAY

ART UNIT	PAPER NUMBER
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2135

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

09/787,065

Examiner

Ponnoreay Pich

Applicant(s)

OELMAIER ET AL.

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 10 July 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: see attached.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

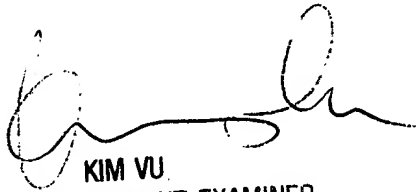
This notice is in response to papers filed by applicant on 7/10/2006. The application was previously abandoned and applicant petitioned to revive the application. The petition to revive was granted.

Based on the remarks by applicant filed on 7/10/2006, the current examiner is confused as to whether the previous examiner examined the correct set of claims and if applicant submitted the correct set of claims to be examined on 7/10/2006, the date applicant petitioned to revive the current application. It would appear that the current application entered national stage on 3/12/2001. It is noted that a preliminary amendment was filed by applicant on 3/12/2001 along with remarks which also contained amended claims, thus at least two set of claims were filed on 3/12/2001 which are different from each other. The two set of claims filed on 3/12/2001 did not have any labels indicating whether they were original or amended. The two sets had some difference in the limitations recited in some of the claims. It is unclear which if any of the two submissions on 3/12/2001 should be considered the original set of claims. Later on 7/26/2001, a transmittal of new application was received by the Office. The received new application contained a yet another different set of claims than what was submitted on 3/12/2001 and none of the claims had any labels indicating their status. It is Office policy to examine the latest submitted set of claims and the set submitted on 7/26/2001 appears to the current examiner to be the set that should have been examined. However, it would appear that the previous examiner examined the set of claims from 3/12/2001 that were entered as preliminary amendments and because none

Art Unit: 2135

of the claims had any labels as required by 37 CFR 1.121, the previous examiner did not notice that the claims from 3/21/2001 and 7/26/2001 were different.

The examiner notes that the set of claims submitted by applicant on 7/10/2006 all are labeled as "Original". However, the set of claims submitted on 7/10/2001 appears to be a mixture of limitations from the set of claims submitted on 3/12/2006 and 7/26/2001 as well as containing other amendments not found in the previously mentioned set of claims, thus are not in original format. As such, the claims submitted on 7/10/2006 are not in compliance with 37 CFR 1.121. To avoid any further confusion as to which set of claims should be examined and if in fact the claims to be examined are in original format or not, the examiner respectfully requests that applicant double check the claims and if the claims were meant to be amended, make the amendments in compliance with 37 CFR 1.121 and indicate which set of claims are meant to be examined.



KIM VU  
SUPERVISORY PATENT EXAMINER  
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